

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

GEORGE C. GREEN and)	
EDNA T. GREEN,)	
)	No.
Plaintiffs,)	
)	
vs.)	COMPLAINT
)	
ROGER H. KUNDE and)	DEMAND FOR JURY TRIAL
NORTH END AUTO WRECKING,)	
INC.,)	
)	
Defendants.)	
)	

Plaintiffs George C. Green and Edna T. Green, by their attorneys, and as and for their claims against Defendants Roger H. Kunde and North End Auto Wrecking, Inc. state as follows:

JURISDICTION & VENUE

1. The plaintiffs are residents and citizens of the State of Wisconsin. Defendant Kunde is a citizen and resident of the State of Iowa. Defendant North End Auto Wrecking, Inc. is a corporation that is incorporated under the laws of the State of Iowa.

2. The amount in controversy, without interest and costs, exceeds the sum or value specified by 28 U.S.C. § 1332.

3. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)(1) & (b)(2) as all defendants reside in this judicial district and a substantial part of the events giving rise to the claims herein occurred in this judicial district.

PARTIES

4. The Plaintiffs, George C. Green and Edna T. Green, are, and at all times material hereto have been, husband and wife and are residents of Darlington, Wisconsin.

5. The defendant, Roger H. Kunde, is an adult individual and is a resident of Bernard, Iowa.

6. The defendant, North End Auto Wrecking, Inc., is an Iowa corporation with its principal place of business in the State of Iowa as set forth in the caption.

FACTUAL ALLEGATIONS

7. Plaintiffs reallege and incorporate the foregoing paragraphs by reference as though fully set forth herein.

8. On May 22, 2010, at approximately 7 a.m. Plaintiff George C. Green was the operator of a semi-tractor trailer traveling eastbound on Highway 151 in Dubuque County, Iowa.

9. At the same date and time, Defendant Roger H. Kunde was the operator of a semi-tractor trailer traveling northbound on 12 Mile Road in Dubuque County, Iowa.

10. The semi-tractor trailer being operated by Defendant Kunde was owned by Defendant North End Auto Wrecking, Inc. Further, Defendant Kunde was operating the semi-tractor trailer in the course of his employment and with the consent and permission of Defendant North End Auto Wrecking, Inc. such that said defendant is liable for the negligence of Defendant Kunde under Iowa Code § 321.493.

11. Defendant Kunde failed to stop for the stop sign that controlled entrance into the intersection.

12. Defendant Kunde collided with Plaintiff Green's vehicle despite Plaintiff Green's best efforts to avoid a collision.

CLAIMS

13. Plaintiffs reallege and incorporate the foregoing paragraphs by reference as though fully set forth herein.

14. Defendant, Roger H. Kunde, was negligent in the operation of his vehicle in the following particulars, including, but not limited to:

- a. Failing to obey a traffic controlled traffic sign;

- b. Failing to maintain proper lookout;
- c. Failing to yield;
- d. Failing to use extreme caution;
- e. Failing to drive safely for the conditions then existing; and/or
- f. Failing to maintain management and control of his vehicle.

15. The aforementioned acts constitute common law negligence and negligence per se in violation of various provisions of the Iowa code governing rules of the road, I.C.A. Ch. 321.

16. The negligent conduct of Defendant, Roger H. Kunde, was a direct cause of the aforesaid collision and of the injuries and damages to Plaintiff, George C. Green, including the following:

- a. Past doctor, hospital, x-ray and other medical expenses for treatment of his injuries;
- b. Future doctor, hospital, x-ray and other medical expenses for treatment of his injuries;
- c. Past pain, suffering and disability, both mental and physical;
- d. Future pain, suffering and disability, both mental and physical;
- e. Past lost wages or earning capacity;
- f. Future lost earnings and the capacity to earn income;
- g. Past lost of full mind and body; and

- h. Future loss of full mind and body.

LOSS OF CONSORTIUM CLAIM

17. Plaintiffs reallege and incorporate the foregoing paragraphs by reference as though fully set forth herein.

18. As a result of the injuries sustained by George C. Green in the collision, Edna T. Green has been, and will in the future be, deprived of her spousal consortium.

WHEREFORE, Plaintiffs George C. Green and Edna T. Green pray for judgment against Defendants Roger H. Kunde and North End Auto Wrecking, Inc., for an award of the following:

- a. Fair and reasonable compensation for his injuries and damages;
- b. Fair and reasonable compensation for Edna Green's loss of spousal consortium with her husband, George Green;
- c. Taxable costs, fees, and interest according to law; and
- d. Such other relief as the Court deems just and equitable.

JURY DEMAND

Plaintiff hereby demands a jury trial on all issues.

/s/

Pressley Henningsen	AT0003402
John Riccolo	AT0006656
Tim Semelroth	AT0007057
Emily Anderson	AT0009321

RICCOLO & SEMELROTH, P.C.

Suite 1140, Plaza 425

425 Second Street SE

Cedar Rapids, Iowa 52401

Phone: (319) 365-9200

Fax: (319) 365-1114

phenningsen@riccololaw.com

ATTORNEYS FOR THE PLAINTIFFS